

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**  
**Civil Division**

DISTRICT OF COLUMBIA  
Department of Insurance, Securities  
and Banking,

Petitioner,

v.

D.C. CHARTERED HEALTH PLAN, INC.,

Respondent.

Civil Action No.: 2012 CA 008227 2  
Judge: Ramsey Johnson  
Calendar No.: 15  
Next Scheduled Event: Status Hearing  
April 26, 2018, at 10:00 a.m.

**PRAECIPE**

**NOTICE OF FILING OF SPECIAL DEPUTY TO THE  
REHABILITATOR'S TWENTY-SECOND STATUS REPORT**

D.C. Chartered Health Plan, Inc., acting through its Rehabilitator and his attorneys, files  
the attached Special Deputy to the Rehabilitator's Twenty-Second Status Report.

Dated: April 13, 2018

Respectfully submitted,

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Special Deputy to the Rehabilitator for  
D.C. Chartered Health Plan, Inc.

**Certificate of Service**

I hereby certify that on April 13, 2018, a copy of the foregoing *Notice of Filing of Special Deputy to the Rehabilitator's Twenty-Second Status Report* was filed and served by email upon:

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/s/ Richard E. Hagerty  
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**SPECIAL DEPUTY TO THE REHABILITATOR'S TWENTY-SECOND STATUS  
REPORT**

Daniel L. Watkins, as Special Deputy to the Rehabilitator of D.C. Chartered Health Plan, Inc. (in Rehabilitation) ("Chartered"), files this *Twenty-Second Status Report*.

1. **Update From Twenty-First Status Report.** On October 17, 2017, the Special Deputy filed his Twenty-First Status Report with the Court. The following information provides an update to that Report.

(a) **Parent Company and Related Party Issues.**

- (i) **Thompson Action.** Chartered's litigation with its sole shareholder District of Columbia Health Systems, Inc. ("DCHSI") and DCHSI's owner, Jeff Thompson (the "Thompson Action," D.C. Super. Ct. Civil Case No. 2013 CA 003752 B) continues, with the parties briefing issues and attending three hearings in the past few months relating to the scope of the Defendants' defenses and schedule for remaining discovery on those defenses. As of the date of this report, Judge Rankin has not yet ruled on the outstanding

discovery issues. The parties have also discussed the possibility of settlement but there has been no progress to report at this time.

- (ii) DCHSI Federal Lawsuit. The lawsuit filed by DCHSI in U.S. District Court for the District of Columbia on August 12, 2016, and amended on January 11, 2017, with Defendants the District of Columbia; Commissioner Stephen C. Taylor, Commissioner of the Department of Insurance, Securities and Banking (“DISB”), in his official capacity as Rehabilitator of Chartered; former DISB Commissioner and Chartered Rehabilitator William White; Daniel Watkins, in his official capacity as Special Deputy to the Rehabilitator (SDR) and personally; Wayne Turnage, Director of the Department of Health Care Finance (DHCF), in his official capacity and personally; AmeriHealth (purchaser of Chartered assets); and Mercer LLC (actuarial firm engaged by DHCF); was dismissed on September 6, 2017, by Judge Richard Leon for lack of subject matter jurisdiction. Citing the *Rooker-Feldman* doctrine, the Court concluded “that it is barred from reviewing the claims asserted by DCHSI” in what is “the functional equivalent of an appeal from a state court.” Judge Leon found that the requirements of “Rooker-Feldman’s limited grasp” were met, with DCHSI’s claims “so inextricably intertwined with a state-court decision that the district court is in essence being called upon to review the state-court decision.” The Court in effect declined to review or undo the orders entered by this rehabilitation court which approved the Plan of Reorganization, the sale of Chartered’s assets to AmeriHealth, and the settlement with the District regarding capitation rates. DCHSI filed an appeal

of Judge Leon's decision at the Federal Circuit on October 5, 2017. A briefing schedule has been set with argument slated for late this year.

- (iii) Motions to Reconsider and Stay Pending Appeal. On December 19, 2016, Judge Judith Bartnoff issued an order denying DCHSI's Motion to Intervene after a hearing on December 15, 2016, at which the Court heard from counsel for both DCHSI and Chartered. Judge Bartnoff found the proposed intervention was untimely and that there was no basis for DCHSI to claim that its interests are not adequately represented by existing parties. In response, DCHSI filed a motion for this Court's reconsideration, a notice of appeal of the denial of intervention with the District of Columbia Court of Appeals, and a motion to stay in this Court pending appeal of the denial. Chartered filed responses in opposition to the motions in this Court. This Court denied the motion to stay on June 27, 2017. The Court of Appeals case was fully briefed and the parties made oral argument March 22, 2018. At the oral argument, DCHSI counsel acknowledged to the Court of Appeals that its motion for reconsideration in this Court was untimely made and thus the motion does not require a ruling by the Rehabilitation Court.

- (b) **Tax Matters.** The U.S. Internal Revenue Service ("IRS") has granted Chartered's requests for abatement of certain penalties and interest previously assessed for Chartered's late-filed 2011 and 2012 tax returns. After the IRS abatements, Chartered has Alternative Minimum Tax AMT liabilities, penalties and interest totaling approximately \$350,000 relating to tax years 2011-2012. Chartered believes it has no tax liability for the tax years 2013-2017 on which returns have been filed with the IRS.

Chartered's filings with the IRS have noted the priority order of asset distribution set by the Court in the Reorganization Plan. To date, no payment has been made to the IRS toward the tax obligations (Class 3 priority) as there currently are not sufficient assets to pay 100% of Class 2 healthcare provider claims. Chartered has filed requests with the IRS to shorten the statutory period for audit or other exception to Chartered's returns. The IRS has granted those requests, and applicable statutory periods for audit exceptions have already run on tax returns for 2011-2015. Chartered remains a member of DCHSI's consolidated tax group and DCHSI has not filed tax returns since 2010. Therefore, federal tax matters relating to DCHSI and Chartered as a member of DCHSI's consolidated tax group have yet to be fully or finally resolved.

2. **Creditor Claims.**

(a) **Proofs of Claim Process.** The status of the proofs of claim process remains unchanged since the last status report. All claim determinations, except for three cited in previous reports, are final with no outstanding appeals.

3. **Rehabilitation Expenses/Assets/Status.** Chartered filed its 2017 Annual Statement of financial results on February 28, 2018 with the Department of Insurance, Securities and Banking and the National Association of Insurance Commissioners. General and Administrative Expenses of \$829,216 were incurred during the 2017 calendar year covered by the report. Chartered currently has cash assets of approximately \$5.6 million. Submissions for fees and expenses for work performed in this proceeding by the Special Deputy, counsel and consultants from April 2017 through August 2017 were reviewed and recommended for payment by the Rehabilitator and approved by the Court. Fee submissions for September and October 2017 have been reviewed and recommended for payment by the

Rehabilitator and are pending the Court's review and approval. Statements for November and December, 2017, and January, February, and March, 2018 are being reviewed by the Rehabilitator and will be forwarded to the Court soon for its review and requested approval.

Respectfully submitted,

**/s/ Daniel L. Watkins**

DANIEL L. WATKINS

Special Deputy to the Rehabilitator of  
D.C. Chartered Health Plan, Inc.